

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SHIRLEY REMMERT,

No. C07-80059 MJJ

Petitioner,

**ORDER DENYING PLAINTIFF'S  
PETITION FOR WRIT OF HABEAS  
CORPUS**

v.

HON. SUSAN ETEZADI, San Mateo County  
Superior Court,

Defendant.

Before the Court is Petitioner's Petition for a Writ of Habeas Corpus, Motion to Relate Cases, and Motion to Stay, filed February, 23, 2007. Based on Petitioner's failure to exhaust State court remedies, the Court **DENIES** Plaintiff's petition and, subsequently, her Motion to Stay.

The exhaustion doctrine, codified at 28 U.S.C. §§ 2254(b) and (c), provides that a federal court may not grant "a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court . . . unless it appears that the applicant has exhausted the remedies available in the courts of the State. . . ."

As explained in *Batchelor v. Cupp*, 693 F.2d 859, 862 (9th Cir.1982), *cert. denied*, 463 U.S. 1212, 103 S. Ct. 3547, 77 L. Ed. 2d 1395 (1983), the doctrine stems "from the basic principle of federalism that federal courts should accord due respect to the role of state courts in enforcing the prohibition against unconstitutional confinement embodied in the writ of habeas corpus. The exhaustion doctrine also serves the interests of judicial economy. State courts should have the first opportunity to examine the lawfulness of a state prisoner's confinement. If the prisoner's claim is


meritorious, and if the state remedy is prompt and complete, there is no need to bring post-conviction proceedings in federal courts.”<sup>1</sup>

Here, Petitioner avers that her Fifth and Fourteenth Amendment right to due process was violated during a trial beginning on November 13, 2006. On January 17, 2007, Defendant, Honorable Susan I. Etezadi in the San Mateo Superior Court, sentenced Petitioner to twenty-eight days in jail and three years probation for three misdemeanors.<sup>2</sup> Petitioner’s surrender date is March 3, 2007. Further, Petitioner has appealed this conviction<sup>3</sup> and has filed a petition for habeas corpus in San Mateo Superior Court.<sup>4</sup> Neither the appeal nor the petition for habeas corpus in San Mateo Superior Court have been assigned case numbers as of the filing of this petition. The California Courts are in the best position to determine the constitutionality of Petitioner’s trial.

Therefore, this Court **DENIES** Petitioner’s Petition for a Writ of Habeas Corpus because she has failed to exhaust state court remedies. Subsequently, Petitioner’s Motion to Stay is also **DENIED**.

**IT IS SO ORDERED.**

Dated: March 2, 2007

  
 MARTIN J. JENKINS  
 UNITED STATES DISTRICT JUDGE

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<sup>1</sup>See also *Batchelor* 693 F.2d at 862 (9th Cir.1982) (stating “[a] petitioner may satisfy the exhaustion requirement in two ways: (1) by providing the highest state court with an opportunity to rule on the merits of the claim . . .; or (2) by showing that at the time the petitioner files the habeas petition in federal court no state remedies are still available to the petitioner and the petitioner had not deliberately by-passed the state remedies.”).

<sup>2</sup>*People of the State of California v. Remmert*, Case No. SM340531A.

<sup>3</sup>Petition for Writ of Habeas Corpus, 3:22.

<sup>4</sup>Petition for Writ of Habeas Corpus, 4:18.